



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE QUICK PASSAGE PROCEDURE TO AMEND THE CLAIMS AGAINST PER CAPITA ORDINANCE (2 HCC § 8)

RESOLUTION 12-17-13J

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and
- WHEREAS,** Article V, Section 2(g) of the Constitution authorizes the Legislature to set its own procedures, select its officers, and to enact laws governing attendance of its members, including penalties for absences; and
- WHEREAS,** Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; and
- WHEREAS,** Article V, Section 3 of the Constitution provides that the Legislature shall adopt Codes governing, among other things, Ethics, including conflicts of interest, nepotism, and the conduct of all elected and appointed officials and employees; and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its Legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and
- WHEREAS,** the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last amended on June 9, 2009; and
- WHEREAS,** the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and
- WHEREAS,** Section 30 of the *Legislative Organization Act* provides Quick Passage Procedures; and

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WHEREAS, under certain limited circumstances, Section 30 provides “[t]he Legislature may vote to immediately pass Legislation”; and

WHEREAS, Section 30 of the *Legislative Organization Act* in relevant parts provides:

(2) For the Legislation to be considered for Quick Passage the Legislature must conclude:

(a) The Legislation must take effect immediately to address a situation that:

1 Adversely affects the health, safety, welfare, or economic well-being of the Nation;

2 Adversely affects a person or multiple people for which Legislative relief is deemed appropriate and necessary by the Legislature;

3 Is internal to the operation of the Government; or

4 Impacts negotiations with a sovereign entity; and

(b) Adherence to the Normal Legislation Process outlined in Section 31 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation; and

WHEREAS, Section 30 of the *Legislative Organization Act* provides “[f]or the Legislation to immediately become the law of the Nation it will require an affirmative vote of more than two-thirds (2/3) of Legislators present at the Legislative Session.”; and

WHEREAS, the Nation has established a system and procedure to make per capita distributions to minors and legally incompetent tribal members, through a Declaration of Trust instrument and accumulation of such distributions to said members until they meet criteria established by the Nation Per Capita Distribution Ordinance (2 HCC §12) or the Nation’s Claims Against Per Capita Ordinance (2 HCC §8); and

WHEREAS, the Nation’s distribution of per capita payments to minors and legally incompetent members has been governed by a Declaration of Trust the Nation entered into with Old Kent Bank (now known as Fifth Third Bank), wherein Fifth Third Bank is the Trustee over said accounts and funds; and

WHEREAS, the Legislature, after a thorough review of the Declaration of Trust and a lengthy process for the selection of new vendors, including a Trustee, adopted a resolution to remove Fifth Third Bank and appoint a successor trust; and

WHEREAS, the Legislature forwarded the Fifth Third Bank Trustee removal resolution to the Ho-Chunk Nation Trial Court for action, but the Court declined to take action, citing a lack of jurisdiction; and

WHEREAS, the Legislature finds it appropriate to amend the Claims Against Per Capita Ordinance in order to provide jurisdiction to the Nation’s Judiciary in the above-described situations; and

WHEREAS, the Legislature finds that a Quick Passage amendment to the Claims Against Per Capita Ordinance is warranted in order to address and improve a situation that is internal to the operation of the Government, and a situation that adversely affects the health, safety, welfare, or economic well-being of the Nation and its members: that being the uncertainty of the accounting, stability, and security of the funds held by Fifth Third Bank and the need to approve the designation of a new Trustee;

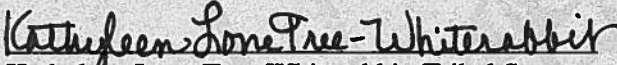
NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, and the Legislative Organization Act, adopts by Quick Passage the below amending language (underlined) to the Nation's Claims Against Per Capita Ordinance:

Claims Against Per Capita Ordinance – New Section 7 added:

"7. Jurisdiction of the Judiciary. Notwithstanding Ho-Chunk Nation Trial Court jurisdictional, standing, or other requirements, the Ho-Chunk Nation Trial Court shall have jurisdiction to (a) approve the removal of any Trustee of the Children's Trust Fund by the Ho-Chunk Nation Legislature and (b) approve the appointment of a bank, trust company, or other entity as successor trustee in the place, and in the stead, of such removed Trustee."

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **10** constituting a quorum were present at a meeting duly called and convened and held that on the **17th day of December, 2013**, adopted the foregoing resolution at said meeting by an affirmative vote of **10 members, 0 opposed, and 0 abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.


Kathleen Lone Tree-Whiterabbit, Tribal Secretary

12.17.13
Date